

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the amendments to the claims and the following remarks, is respectfully requested.

Claims 1, 3-13 and 15-24 are pending in this application. Claims 1, 3-5, 8, 11-12, 15-16, 18-19 and 22-24 are amended. Support for the changes to the claims is found throughout the originally filed disclosure, including the original claims, the specification at least at page 18, lines 23-24, and the drawings at least in Figs. 4 and 11. No new matter is added.

In the outstanding Office Action, Claims 1, 3-5, 11-12, 15-16, 18-19 and 22-24 were rejected under 35 U.S.C. § 112, first paragraph; Claims 1, 3-13, 15-20 and 22-24 were rejected as unpatentable over U.S. 6,529,506 (Yamamoto) in view of U.S. 6,414,960 (Kuhn) and U.S. 6,466,832 (Zugert); and Claim 21 was rejected under 35 U.S.C. § 103(a) as unpatentable over Yamamoto, Kuhn and Zugert in view of U.S. 6,446,037 (Fielder).

A telephone interview was conducted with Examiners Nguyen and John on February 2, 2011, to discuss the claimed invention and the outstanding Office Action. Applicant thanks the examiners for their time and comments.

Concerning the rejection under 35 U.S.C. § 112, first paragraph, item 6 of the Office Action states that audio level is mentioned in the specification, but audio level is not the same as audio *volume* level. However, especially in light of the exemplary embodiments shown in Figure 11, it is unclear how the Examiner is interpreting audio level as described in the specification as not including audio volume level. Nonetheless, the claims are amended to recite audio *amplitude* level, since it is directly apparent from Figure 11 that a form of audio amplitude level is shown therein.

These perspectives were shared with the examiners at the interview. The examiners indicated that it appeared the amendments to the claims addressed the rejection under 35 U.S.C. § 112, first paragraph. Consequently, reconsideration is respectfully requested, and it

is respectfully submitted the rejection under 35 U.S.C. § 112, first paragraph, is overcome and should be withdrawn.

Concerning the rejections under 35 U.S.C. § 103, arguments and claim amendments pursuant with the following comments were discussed, and the claims are amended in light of the results of the interview. At the interview, the examiners tentatively agreed that aspects of Fig. 11, from which the amendment to the claims submitted herewith finds support, show features which are allowable over the art. The amendment submitted herewith is consistent with the features shown in Fig. 11 and described in the corresponding sections of the specification. Accordingly, taking Claim 1 as an example, reconsideration and withdrawal of the rejections under 35 U.S.C. §103 are respectfully requested.

Claim 1 defines a network interface device connectable to a network. The device is arranged to receive digital audio data representing an audio signal and further to launch data packets representing the digital audio data onto the network. To do so, the device includes an audio amplitude level detector and a packetiser. The audio amplitude level detector has a processor programmed to generate, from audio properties of the digital audio data, audio amplitude level data representing an audio amplitude level of the audio signal. The packetiser operates to (1) format the digital audio data into audio data packets to be launched onto the network, and (2) format the audio amplitude level data into audio amplitude level data packets.

The audio amplitude level data packets are separate from the audio data packets. Consequently, audio data packets are launched onto the network separate from audio amplitude level data packets so that the audio amplitude level data packets can be received by a destination device without the destination device receiving the audio data packets. The art of record fails to disclose or reasonably suggest these features.

The rejection relies primarily on Yamamoto to describe the claimed network interface device. In particular, the Office Action states the device includes a packetiser operable to format digital audio data into audio data packets to be launched onto the network, citing column 2, lines 48-53 of Yamamoto. This section of Yamamoto, however, does not discuss formatting audio data packets.

This section merely describes a process of extracting signature data which is embedded in digital audio data. Further, the relied upon portion of Yamamoto references Figure 19 of Yamamoto, which is an illustration of prior art. In that figure, a signature data mechanism is shown with an audio data file. There is absolutely no mention of formatting digital audio data into audio data packets.

The Office Action also states that Yamamoto describes a packetiser operable to format audio level data into audio level data packets separate from the audio data packets, citing to column 22, lines 56-62, referring to Fig. 4. This section merely discusses the device in Fig. 4 as *receiving* audio data through a network.

Nonetheless, as clarified herewith, Claim 1 requires the audio data packets to be launched onto the network separate from audio amplitude level data packets so that the audio amplitude level data packets can be received by a destination device without the destination device receiving the audio data packets. Figure 11 was discussed as an example of the claimed invention at the interview. In particular, it was discussed that a destination device (a screen of which is shown in Fig. 11) receives audio amplitude level data packets (the values of which are shown in bars 210) *without* receiving the audio data packets (specifically, without receiving the corresponding full bandwidth audio signal).

As discussed at the interview, Yamamoto does not describe any aspects concerning transmitting or receiving audio amplitude level data packets *without* the corresponding audio

data packets. Also as discussed at the interview, Yamamoto does not describe attribute information as corresponding to the claimed audio amplitude level.

Item 9 of the Office Action appears to agree with this assessment concerning the attribute information, but item 10 of the Office Action states Kuhn remedies these deficiencies in Yamamoto. Applicant respectfully disagrees.

The Office Action states Kuhn teaches an audio/video synchronous test signal generator, where an audio decoder terminates an audio input and synchronizes a frame boundary with the measurement of the level of an audio channel. Thus, audio content can be transmitted if the audio level is greater than or equal to -45 dBu.

Although Figure 5 of Kuhn show RMS detectors 350 and the relied upon sections of Kuhn describe aspects of measuring an audio amplitude level, Kuhn does not remedy the above-noted deficiencies of Yamamoto. Adverting back to Claim 1, the claimed device requires an audio amplitude level detector which has a processor programmed to generate audio amplitude level data representing an audio amplitude level of the audio signal. The device of Claim 1 also requires a packetiser operable to format the audio amplitude level data into audio amplitude level data packets separately from audio data packets. Kuhn does not describe forming audio amplitude level data packets. Kuhn merely describes using a power level measurement as a threshold for a test generator, as shown in Figures 6-7 and 9.

As a result, Yamamoto and Kuhn are deficient in disclosing or reasonably suggesting the features of Claim 1. Neither of these references describes formatting digital audio data and audio amplitude level data as *separate* packets to be launched onto a network. Moreover, neither of these references describes any aspects concerning transmitting or receiving audio amplitude level data packets *without* the corresponding audio data packets.

The Office Action at item 12 states that Yamamoto and Kuhn do not explicitly discuss volume level present in audio data. More importantly, however, Yamamoto and Kuhn fail to

describe formatting audio amplitude level data into packets *separate from* audio data packets.

Nonetheless, the Office Action cites to Zuqert to describe the noted deficiency.

As identified in the Office Action, Zuqert describes a wireless audio speaker system which includes a transmitter that reframes audio data into a plurality of packets and wirelessly transmits two copies of each packet to wireless speaker receivers.¹ As identified in the Office Action, Zuqert describes an aspect of adding ancillary data in the process of encoding and transmitting audio data.² As noted in the Office Action, Zuqert also describes that the ancillary data may include right/left indications and volume control in consecutive packets 156 and 158 so that necessary control information can be sent to receivers of respective speakers.³ Figure 6 of Zuqert shows a control block including the ancillary data fields, including volume that is in bits 0-7. However, Zuqert fails to remedy the above-noted deficiencies of Yamamoto and Kuhn.

Claim 1 requires a packetiser operable to format audio amplitude level data into audio amplitude level data packets *separate from* audio data packets. Quite to the contrary, Zuqert explicitly describes formatting digital audio data and volume data bits 0-7 in the *same* packets. In particular, Figure 5 of Zuqert shows data 166 as including a payload field 168 and the ancillary field 170. The payload field 168 contains the compressed audio data.⁴

As a result, the teachings of Zuqert require audio amplitude level data to be formatted *together with* audio data *into the same packets*, which is contrary to the claims. Moreover, since the audio amplitude level data and the audio data are packetised together, it is impossible in Zuqert to transmit or receive audio amplitude level data packets *without* the corresponding audio data packets.

¹ Office Action, item 13 and Zuqert Abstract.

² Zuqert, Figure 3 and column 11, lines 15-33.

³ Zuqert, column 13, lines 1-12.

⁴ Column 12, lines 40-45.

In summary, the art of record is deficient in disclosing or reasonably suggesting a packetiser operable to format audio amplitude level data into audio amplitude level data packets *separate from* audio data packets so that the audio amplitude level data packets can be received by a destination device without the destination device receiving the audio data packets. Therefore, it is respectfully submitted Claim 1 is allowable over the art of record.

Although varying in scope and/or directed to different statutory classes, it is respectfully submitted the other independent claims are also allowable over the art of record for substantially similar reasons as noted above regarding Claim 1. Therefore, it is respectfully submitted the outstanding rejections under 35 U.S.C. § 103 should be withdrawn.

Consequently, it is respectfully submitted no other issues remain pending in this application and this application is thus in condition for allowance. Should the Examiner disagree, the Examiner is encouraged to contact the undersigned to discuss any remaining issues. Otherwise, a timely Notice of Allowance is respectfully requested.

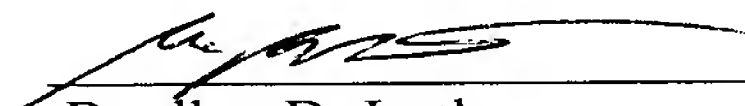
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/07)


Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Marc A. Robinson
Registration No. 59,276